

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2016-150
Pharmacist License of)	
)	NOTICE OF HEARING AND
RAJAN DEVAN)	STATEMENT OF CHARGES
License No.19490)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Rajan Devan pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)(e), and 657 Iowa Administrative Code rules 35.5 and 36.5. Respondent's Iowa pharmacist license number 19490.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on March 7, 2017 before the Board. The hearing shall begin at 9:00 am and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 Iowa Administrative Code rule 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 Iowa Administrative Code rule 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code chapter 35. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 Iowa Administrative Code rule 35.16. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Gavin can also be reached by phone at (515) 281-6736 or by e-mail at Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office at (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2015).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 147, 155A, and 272C, and 657 Iowa Administrative Code chapter 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 Iowa Administrative Code rule 35.21.

C. CHARGES

COUNT I

ENGAGING IN UNETHICAL CONDUCT OR PRACTICE HARMFUL OR DETRIMENTAL TO THE PUBLIC

Respondent is charged with engaging in unethical conduct or practice harmful or detrimental to the public in violation of Iowa Code sections 147.55(3) and 155A.12(2) and 657 Iowa Administrative Code rules 36.1(4)(c).

COUNT II
FAILING TO MAINTAIN SECURITY

Respondent is charged with failing to maintain pharmacy security in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 6.7 and 36.1(4)(u).

COUNT III
FAILING TO PROPERLY TRANSFER PRESCRIPTIONS

Respondent is charged with violating rules of the Board by failing to properly transfer prescriptions in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 6.9(3) and 36.1(4)(u).

COUNT IV
FAILING TO MAINTAIN AN ACCURATE PERPETUAL INVENTORY

Respondent is charged with violating rules of the Board by failing to maintain an accurate perpetual inventory of schedule II controlled substances in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 10.33 and 36.1(4)(u).

COUNT V
KNOWINGLY ADVISING ANOTHER PERSON TO UNLAWFULLY PRACTICE PHARMACY

Respondent is charged with knowingly advising another person to unlawfully practice pharmacy in violation of Iowa Code sections 147.55(9) and 155A.12(3),(6) and 657 Iowa Administrative Code rules 36.1(4)(l).

COUNT VI
ATTEMPTING TO CIRCUMVENT PATIENT COUNSELING REQUIREMENTS

Respondent is charged with attempting to circumvent patient counseling requirements in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rule 36.1(4)(w).

COUNT VII
FAILING TO MAINTAIN COMPLETE AND ACCURATE RECORDS

Respondent is charged with failing to maintain complete and accurate records in violation of Iowa Code sections 147.55(9) and 155A.12(4) and 657 Iowa Administrative Code rule 36.1(4)(ac).

D. FACTUAL CIRCUMSTANCES

1. The Board received a complaint concerning the operation of Osky Pharmacy in Oskaloosa, Iowa. Respondent serves as the pharmacist-in-charge of Osky Pharmacy.

2. On numerous occasions, Respondent has arrived at the pharmacy hours after the scheduled opening, fallen asleep at the pharmacy, or closed the pharmacy with no notice to staff or patients. As a result, the pharmacy has been frequently open without a pharmacist present.

3. On several occasions, Respondent directed a certified technician to open the pharmacy in his absence and dispense prescriptions, including prescriptions for controlled substances. Respondent has given a technician the keys, alarm code, and combination to the controlled substances safe.

4. Respondent filled and dispensed prescriptions that had no refills before contacting the prescriber.

5. Respondent filled prescriptions in advance of the request of the patient, left them in a crude file, and did not order the medication. If the patient did not request the medication, the claims were shredded and not reversed.

6. On numerous occasions, Respondent filled controlled substances earlier than the permissive fill date.

7. Respondent failed to record several prescriptions and invoices for Schedule II controlled substances in the perpetual inventory log.

8. Unclaimed prescriptions in the will-call area were not reversed in the system, Respondent simply put them back on the shelf. Respondent did not reverse insurance claims.

9. Patients were not counseled on new prescriptions because Respondent was not present when prescriptions were dispensed.

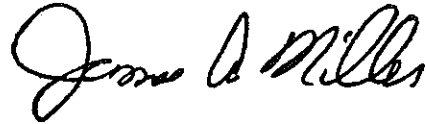
10. Respondent instructed staff to transfer prescriptions by faxing the screen shot when the pharmacist was absent.

D. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Meghan Gavin at (515) 281-6736.

E. FINDING OF PROBABLE CAUSE

On this 4th day of January 2017, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

Copy to:

Meghan L. Gavin
Assistant Attorney General
Licensing & Administrative Law Division
Iowa Department of Justice
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Tom Crab
ATTORNEY FOR RESPONDENT